

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No. 852 of 1995

For Approval and Signature:

HON'BLE MISS JUSTICE R.M.DOSHIT

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- 1 Whether Reporters of Local Papers may be allowed to see the judgment ?
 - 2 To be referred to the Reporter or not ?
 - 3 Whether their Lordships wish to see the fair copy of the judgment ?
 - 4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?
 - 5 Whether it is to be circulated to the civil judge ?

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HEIRS OF DEC. SHANTABEN CC RANA & 11 - Applicant(s)

Versus

LAXMAN BHAI CHHAGANBHAI RANA - Opponent(s)

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Appearance :

MR JAYESH M PATEL for Petitioner No(s).: 1.

MR DF AMIN for Respondent No(s).: 1.

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CORAM :HON'BLE MISS JUSTICE R.M.DOSHIT

Date : 12/07/2005

ORAL JUDGMENT

Feeling aggrieved by the judgment and order dated 28th March, 1995 passed by the learned Joint District Judge, Kheda in Civil Appeal No.18/1988, the appellants (defendants in Regular Civil Suit No.45/1981) have

preferred the present Revision Application under Section 29(2) of the Bombay Rents, Hotel and Lodging House Rates Control Act, 1947 (hereinafter referred to as, "**the Rent Act**").

The respondent-plaintiff instituted Regular Civil Suit No.45/1981 in the Court of Civil Judge (S.D.), Nadiad for recovery of possession of the suit premises and the amount of arrears of rent due since 15th June, 1954. According to the plaintiff the suit premises, house no.204 situated in Ward No.9 at Nadiad, was of the ownership of one Ranjitbhai Ullasram Jaiswal. The suit premises was leased to one Chimanlal Rana, the ancestor of the defendants for a monthly rent of Rs.13=00. By registered sale deed dated 22nd November, 1979 the plaintiff purchased the suit premises and the right to recover the amount of rent due from its owner Ranjitbhai Jaiswal. By notice dated 8th August, 1980 the plaintiff had demanded the amount of rent due. The defendants, however, failed to pay the amount of rent due. Therefore, the suit. The suit was contested by the defendants vide written statement Exh.11. The defendants denied that they were in arrears of rent as alleged. The defendants denied

that they were given attornment notice or that they were in arrears of rent as alleged. It was stated that in answer to the suit notice dated 8th August, 1980 the defendants had tendered the rent to the plaintiff however, he did not accept the same. The defendants, therefore, on 22nd January, 1981 sent a Money Order in the sum of Rs.156=00 which was not accepted by the plaintiff.

The learned Civil Judge, by judgment and order dated 11th September, 1987, held that the plaintiff had proved the ownership of the suit premises. The plaintiff, however, failed to prove that he had purchased the right to recover the amount of rent due. The learned Civil Judge held that the defendants were the tenants in default; that the rent was payable by the month; that there was no dispute as to the standard rent of the suit premises; that the defendants failed to pay the amount of rent due within one month from the date of the receipt of the notice of demand. The matter was covered by Section 12(3)(a) of the Rent Act. The defendants were, therefore, liable for eviction. Feeling aggrieved, the defendants preferred Civil Appeal No.18/1988 in the Court of learned District Judge, Kheda. The learned Joint

District Judge, Nadiad, by judgment and order dated 28th March, 1995, confirmed the finding recorded and the decree passed by the trial Court. Therefore, the present Revision Application.

As recorded by both the Courts below, the defendants were, on the date of the suit, in arrears of rent for more than 6 months; that the rent was payable by the month; that there was no dispute as to the standard rent of the suit premises and that the defendants did not pay the amount of rent due within one month from the date of the receipt of the suit notice given under Section 12(2) of the Rent Act. The matter has rightly been held to be covered by Section 12(3)(a) of the Rent Act. As the defendants failed to pay the rent within one month from the date of the receipt of the suit notice, the decree for eviction was inevitable.

No case for interference is made out. The Revision Application is dismissed with cost. Rule is discharged. Interim relief stands vacated.

(Ms. R.M.Doshit, J.)

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